

## IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

## IN AND FOR THE COUNTY OF MARICOPA

ROBERT J. SWANSTON, individually and  
on behalf of himself and all others similarly  
situated,

Plaintiff,

vs.

TAP PHARMACEUTICAL PRODUCTS,  
INC.; et al.,

Defendants.

CV2002-004988

**ORDER DESIGNATING  
CASE AS COORDINATED  
STATE COURT CASE**

(Assigned to the Honorable  
Rebecca A. Albrecht)

Certain Defendants having filing a Motion to Designate the Case as a  
Coordinated State Court Case, the Court having read all responsive briefing, and for  
good cause appearing,

**IT IS HEREBY ORDERED** designating this case as a Coordinated State  
Court Case pursuant to Case Management Order No. 9 ("CMO 9) in *In re*  
*Pharmaceutical Industry Average Wholesale Price Litigation*, MDL 1456 (D. Mass.)  
(hereafter, "MDL 1456"). Accordingly, the Court orders the following:

- (a) The parties will make good faith efforts to coordinate discovery  
in this case with the discovery that is and will be occurring in  
MDL 1456.
- (b) Counsel in this case shall be entitled to participate fully in any or  
all discovery activities in MDL 1456 in the same manner as  
counsel in any of the included actions in MDL 1456, subject to  
the orders and rules governing the MDL proceedings (including

appearing before the MDL Court to address discovery-related matters in that proceeding).

- (c) Any discovery generated in the MDL 1456 proceeding will be fully available for use in this case to the extent permitted by this Court under the laws and rules of this jurisdiction and any applicable confidentiality or protective orders entered in this case, and any discovery generated in this case will be fully available for use in the MDL 1456 proceeding, subject to any applicable confidentiality or protective orders entered in the MDL proceeding.
- (d) To avoid duplicative depositions of any person or party, Plaintiffs' Counsel will be responsible for keeping Plaintiffs' Liaison Counsel in MDL 1456 fully apprised of the scheduling of any depositions in this case, as the Court in MDL 1456 has asked Plaintiffs' Liaison Counsel in MDL 1456 to reciprocate. If for any reason a defendant knows or has reason to believe that Plaintiffs' Counsel are unaware of a deposition going forward in any case that is not a Coordinated State Court Case, it shall inform Plaintiffs' Counsel in this action of that deposition with enough notice to allow them or other counsel to attend.

DATED this 22 day of November, 2004.

/s/ Rebecca A. Albrecht  
THE HONORABLE REBECCA A. ALBRECHT  
Judge, Superior Court of Arizona, Maricopa County